

REMARKS

This amendment is responsive to the Office Action mailed on March 23, 2010. The Examiner's comments in the Office Action have been considered.

Claims 1-43 and 45-124 are currently pending in the subject application. Claims 1-25, 45-49, 123 and 124 have been rejected, while claims 26-43 and 50-122 have been withdrawn from consideration.

Regarding the priority document of the application filed in Germany on June 16, 2003, this document cannot be submitted by applicant.

Claims 1-25, 45-49, 123 and 124 have been rejected as being indefinite for reasons set forth in paragraph 5 of the Office Action. All of these claims have been amended to address and correct the informalities pointed out by the Examiner. The amended claims, it is believed, overcome the indefiniteness these rejections and it is respectfully submitted that these claims particularly point out and distinctly claim the subject matter that the applicant regards as an invention. Reconsideration and withdrawal of these rejections is, accordingly, respectfully requested.

Claims 1-25, 45-49, 123 and 124 have been rejected as being obvious and, therefore, unpatentable on the basis of the primary U.S. Patent No. 4,522,546 to Ringer in view or when combined with secondary U.S. Patent No. 4,049,135 to Glassmeyer, for reasons set forth in paragraph 7 of the Office Action. Claims 1-25, 45-49, 123 and 124 have also been rejected on the basis of Ringer and Glassmeyer in further view of either one of the U.S. Patents Nos. 4,715,766 to Gebhardt or Japanese Publication JP 59-194938 to Tanabe for reasons set forth in paragraph 8 of the Office Action. In paragraph 9 of the Office Action the Examiner has indicated that the previously submitted arguments have been considered but were not deemed to

be persuasive because the argument that the lifting devices were fixed directly and permanently on the track bed did not reflect the limitations in the claims. The undersigned attorney for the applicant subsequently conducted a telephone conference with Examiner Keenan to discuss the rejections and the applied prior art and the Examiner agreed that amendments to the claims of the type therein that reflect the requirement that the lifting devices being anchored directly to the track bed would distinguish over the applied references and place the claims in condition for allowance. Consistent with the telephone conference with the Examiner, independent claims 1, 13 and 17 have been amended to recite that the lifting devices are anchored directly to the track bed. This should place these independent claims in condition for allowance and render the remaining claims that depend directly or indirectly on these allowable claims into condition for allowance as well.

More specifically, applicant points out the following:

Claim 1:

The claim has been amended to recite that the rail track (43) is supported on a track bed. In addition, the lifting devices are now anchored directly to the track bed, as suggested by the Examiner.

Furthermore, the “moving” of the car superstructure is not carried out by the lifting devices. The lifting devices are only used for “lifting and lowering” the car superstructure, not for “moving” the same. Therefore, the above-mentioned text has been removed to render the claim more technically accurate.

Claim 10:

Concerning claim 10 applicant proposes using the wording “a direction” instead of “the directions”, because each rail car only travels in a single “direction of travel” or “driving direction”.

Claim 13:

Concerning claim 13, as with claim 1, applicant has amended this claim to also recite “that the lifting devices are anchored directly to the track bed”. Claim 13 has been amended to recite that the first and second rail tracks are supported on a track bed, respectively, and that the lifting devices are anchored directly to the track bed.

Claim 17:

Claim 17 has also been amended in accordance with claim 1. Thus, the lifting devices are anchored directly to the track bed of the rail tracks.

Furthermore, as suggested by the Examiner the wording “of the” has been amended to “of each of the” and the word “and” has been deleted. In addition, line 13 of claim 17 has been amended as suggested by the Examiner.

Claims 18 to 22:

In each of claims 18 to 22 the wording "loading and/or unloading device" has been amended to “loading and unloading device”. In addition, in the last line of claim 22 "Loading and/or unloading" has been amended to “loading/unloading”. In addition the word "tracks" has been changed to the wording “rail tracks (43)”.

Claims 22-24:

The first lines of claims 23 and 24 have also been amended as suggested by the Examiner. Furthermore, also line 2 of claim 23 has been amended as suggested by the Examiner.

In addition, the Examiner has objected that claims 23 and 24 recite a plurality of load supports, but claim 22 from which they depend recites only a single load support. It is true that claim 22 recites that each of the lifting devices has one load support. However, claims 23 and 24 refer to all the load supports of each of the lifting devices. Therefore, it is respectfully submitted that the use of the plural form was correct. Nevertheless, claims 22-24 have been amended to avoid any apparent inconsistencies.

Claim 25:

Line one of claim 25 has also been amended as suggested by the Examiner. Furthermore, it has been objected that "the track bed" lacks antecedent basis. This objection should be overcome because the wording "track bed" has been integrated in claim 17 from which claim 25 depends.

Claims 45 to 47:

Claims 45 to 47 have also been amended by supplementing the wording "loading and/or unloading" by the wording "loading and unloading" as suggested by the Examiner.

Claim 48:

Claim 48 has been amended to address the Examiner's concern and should be in acceptable form.

Claim 49:

Lines 1 and 3 of claim 49 have been amended as suggested by the Examiner.

Claims 123 and 124:

The first lines of these claims have been amended as suggested by the Examiner. Furthermore, claim 123 has been clarified by reintroducing the wording "based on the wedge principle". This clarifies the claim and eliminates the ambiguity raised by the Examiner.

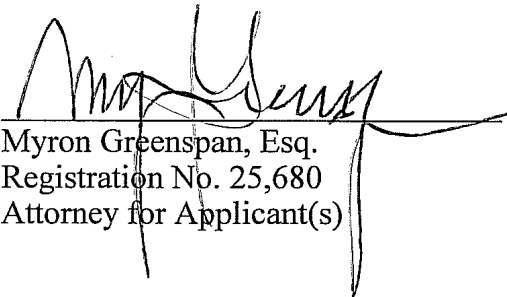
In view of the foregoing it is respectfully submitted that all of the rejections raised by the Examiner have been addressed and overcome by the amendments discussed.

This application is now believed to be in condition for allowance. Early allowance and issuance is, accordingly, is respectfully solicited.

Applicant hereby any fee necessary for the consideration of this Amendment or to prevent abandonment of this application, to be charged to Deposit Account No. 10-0100.

Date: June 23, 2010

Respectfully submitted,



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